

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In re

CUSTOMS AND TAX ADMINISTRATION  
OF THE KINGDOM OF DENMARK  
(SKATTEFORVALTNINGEN) TAX  
REFUND SCHEME LITIGATION,

This document relates to: 1:18-cv-05053

MASTER DOCKET

Case No. 1:18-md-02865-LAK

DECLARATION OF LUTHER  
KISANGA

I, Luther Kisanga, depose and say as follows:

1. I am an associate at the law firm Rosenblatt Limited, counsel for ED&F Man Capital Markets Ltd. ("ED&F") in the English Action, and I have personal knowledge of the matters in this declaration.

2. ED&F is a Broker Custodian and defendant to the English Action, the Complaint for which (known in English procedure as the Claim) was issued by SKAT on May 4, 2018. The allegations in the English Action relate to the same factual matrix as those raised in case 18-cv-05053, namely the circumstances in which Danish withholding tax reclaims were made by or on behalf of ED&F's clients to SKAT between August 2012 and April 2015. SKAT's Claim in the English Action seeks damages from ED&F of DKK 574,608,396.43 plus costs, interest, and other asserted relief.

3. ED&F filed and served its Defence and Amended Defence to the English Action on December 14, 2018 and September 6, 2019, respectively. The next stage in the English Action is the provision of discovery (known in English procedure as disclosure), the procedure for which is already well under way. In accordance with Practice Direction 51U of the English Civil Procedure Rules, the parties to the English Action are now in the process of agreeing to a detailed List of Issues of Disclosure ("LOID") setting out the parameters of each parties' disclosure obligations. SKAT issued the first draft of the LOID on August 29, 2019. The Defendants (including ED&F) have since provided their comments and proposed amended wording to the LOID, and on October 1, 2019 the parties' respective legal representatives met to agree and narrow the issues in relation to the LOID.

4. A three-day Case Management Conference has been scheduled for January 14-16, 2020 before the assigned judge in the English Action, Mr. Justice Andrew Baker, at which the final parameters on disclosure will be ordered. Extensive disclosure by each of the parties, including ED&F will then follow in accordance with Mr. Justice Baker's order.

5. In the circumstances, SKAT's Request for the Provision of Documents Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and Civil rule 26.3 represents an attempt to bypass the English Civil Procedure Rules and any agreements among the parties to the English Action, including SKAT, on the scope of appropriate discovery and thus is an abuse of process.

I, Luther Kisanga, hereby declare under penalty of perjury that the foregoing is true and correct.

Dated: October 18, 2019  
London, England

/s/ 